

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
DEL RIO DIVISION

JASMINE C., an individual and on behalf,
of M.C., a minor and her child; ET AL.,

Plaintiffs,

V.

DANIEL DEFENSE, LLC; DANIEL DEFENSE, INC.; OASIS OUTBACK, LLC; and DOES 1-300,

Defendants.

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CASE NO. 2:23-cv-00014-AM-CW

**DANIEL DEFENSE, LLC’S AND PLAINTIFFS’
ADVISORY TO THE COURT**

TO CHIEF UNITED STATES DISTRICT JUDGE ALIA MOSES:

Now come Defendant Daniel Defense, LLC f/k/a Daniel Defense, Inc. (“Daniel Defense”) and Plaintiffs and submit this Advisory to the Court concerning Daniel Defense’s pending Amended Rule 12(b)(1) Motion to Dismiss for Lack of Subject Matter Jurisdiction (Doc. 20). Daniel Defense and Plaintiffs have reached an agreement regarding this motion and respectfully advise the Court as follows:

I. BACKGROUND

This lawsuit arises out of the May 24, 2022 Uvalde school shooting.

Plaintiffs filed their Original Complaint on November 29, 2022. (Doc. 1). Daniel Defense and Oasis Outback, LLC (“Oasis Outback”) were named as defendants. *Id.* The case was originally filed in the Austin Division and was transferred to the Del Rio Division on March 1, 2023. (Doc. 19).

The same Plaintiffs in this case filed their Original Complaint in *J.P. et al. v. Uvalde Consolidated Independent School District et al.*, No. 2:23-cv-00015-AM (“*J.P.*”) on November 29, 2022. That case was also originally filed in the Austin Division and transferred to the Del Rio Division. Daniel Defense and Oasis Outback were ***not named*** as defendants in this complaint.

Daniel Defense filed their Rule 12(b)(1) Motion to Dismiss for Lack of Subject Matter Jurisdiction in this case on February 17, 2023. (Doc. 11).

Plaintiffs filed their Amended Complaint in this case on February 22, 2023. (Doc. 14).

That same day, Plaintiffs filed their Amended Complaint in *J.P.* (Doc. 15). Daniel Defense and Oasis Outback were not named as defendants in this amended pleading. *Id.*

On March 8, 2023, Daniel Defense filed its Amended Rule 12(b)(6) Motion to Dismiss for Lack of Subject Matter Jurisdiction in this case. (Doc. 20).

On March 31, 2023, in *J.P.*, Plaintiffs filed their Ex Parte Motion for Leave to File Second Amended Complaint (“Motion for Leave”). (Doc. 22). Plaintiffs’ Second Amended Complaint seeks to add Daniel Defense, Oasis Outback, and the United States of America as additional defendants.

On April 3, 2023, Plaintiffs filed their Response to Daniel Defense’s Amended Rule 12(b)(1) Motion to Dismiss in this case. (Doc. 23). Plaintiffs ask the Court to stay a ruling on Daniel Defense’s dismissal motion until the Court decides their Motion for Leave in *J.P. Id.*, p. 3. Plaintiffs state that if the Court grants them leave to file their Second Amended Complaint, they will then dismiss their claims against Daniel Defense in this case. *Id.*

II. THE PARTIES’ AGREEMENT

Counsel for Plaintiffs and Daniel Defense have conferred about the pending motions and advise the Court of their agreement.

1. Daniel Defense agrees not to oppose Plaintiffs' Motion for Leave in *J.P.*
2. If and when the Court grants Plaintiffs leave to file their Second Amended Complaint in *J.P.*, Plaintiffs agree to dismiss Daniel Defense from this case without prejudice. Further, Daniel Defense will execute a waiver of service in *J.P.* Pursuant to Federal Rule of Civil Procedure 4(d)(3), Daniel Defense will have 60 days from that date to file their responsive pleading.
3. If the Court denies Plaintiffs leave to file their Second Amended Complaint in *J.P.*, Plaintiffs agree to not oppose Daniel Defense's request to file their Reply Brief in Support of their Amended Rule 12(b)(1) Motion in this case, after the April 10, 2023 deadline.

AGREED:

/s/ David M. Prichard

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/s/ Charles A. Bonner (with permission)

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